

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-1704

United States of America,

Appellee,

v.

Sergio Martinez-Soto,

Appellant.

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Appeal from the United States
District Court for the District
of Nebraska.

[UNPUBLISHED]

Submitted: April 21, 2006

Filed: April 21, 2006

Before MELLOY, FAGG, and BENTON, Circuit Judges.

PER CURIAM.

Sergio Martinez-Soto pleaded guilty to conspiracy to distribute and possess with intent to distribute methamphetamine mixture, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1) and 846; possession of a firearm during the commission of a drug-trafficking crime, in violation of 18 U.S.C. § 924(c); and a criminal forfeiture count. The district court^{*} imposed consecutive prison terms of 120 months on the drug-conspiracy charge and 60 months on the gun charge, two concurrent terms of 5 years of supervised release, and a forfeiture of \$14,100. On appeal, Martinez-

^{*}The Honorable Laurie Smith Camp, United States District Judge for the District of Nebraska.

Soto's counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967).

To the extent the Anders brief can be read to challenge the imposition of the statutory mandatory minimum sentences, the argument fails. See United States v. Chacon, 330 F.3d 1065, 1066 (8th Cir. 2003) (only authority for district court to depart from statutory minimum sentence is found in 18 U.S.C. § 3553(e) and (f), which apply only when government makes motion for substantial assistance or defendant qualifies for safety-valve relief); United States v. Mendoza, 876 F.2d 639, 641 (8th Cir. 1989) (mandatory minimum sentencing does not violate defendant's constitutional rights). Having reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), for any nonfrivolous issues, we find none. Thus, we affirm the district court's judgment, and we also grant counsel's motion to withdraw.
